

Law Office of Michael P. Goldstein

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October 18, 2018

Mr. Jorge E. Navarrete,  
Clerk and Executive Officer  
California Supreme Court  
350 McAllister St.  
San Francisco, CA 94102

Re: People v. Thomas Potts, No. S072161

Dear Mr. Navarrete:

Please advise the Court that the following are the issues on which I intend to focus at oral argument, which is set for November 7, 2018:

II. In extemporaneous pre-instructions concerning reasonable doubt in a circumstantial case, the trial court impermissibly lent its authority to the prosecution's cause and grossly diluted that party's burden of proof.

III. A prosecutor was permitted to argue that the jury should not acquit a guilty defendant just because the reasonable-doubt standard was not met and imply that the jury would be accountable to the prosecutors.

XII. The trial court improperly excused jurors for being death-scrupled.

In addition, in the unlikely event that time permits, I would like to briefly address — and take the Court's questions — on the instructional claims regarding robbery, which was a basis for finding first-degree murder. These were that the instructions explicitly permitted conviction if the intent to steal was formed after the victims were assaulted (Argument VI) and regardless of whether all the elements of robbery were proved (Argument V).

Very truly yours,

/s/

Michael P. Goldstein,  
Attorney for Appellant

cc: Sally Espinoza, Deputy Attorney General  
California Appellate Project  
Thomas Potts

**CERTIFICATE OF SERVICE**

Re: People v. Thomas Potts

No. S072161

I, Judy Lyons, certify that I am not a party to the within cause; that my business address is 303 Hegenberger Road, Suite 305, Oakland, California 94621; and that I served a true copy of the

**FOCUS LETTER**

(previously served electronically on CAP and Deputy Attorney General Sally Espinoza by Michael Goldstein)

on the following, by placing same in an envelope addressed as follows:

Mr. Thomas Potts  
P-06800 1 EY 5  
CSP San Quentin  
San Quentin, CA 94964

On October 22, 2018, I sealed and deposited the envelope in the United States Mail at Oakland, California, with the postage prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Signed on October 22, 2018, at Oakland, California.

  
\_\_\_\_\_  
Judy Lyons

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. POTTS (THOMAS)**

Case Number: **S072161**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **mpgoldstein@earthlink.net**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

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Sally Espinoza Additional Service Recipients	sally.espinoza@doj.ca.gov	e-Service	10/18/2018 4:02:06 PM

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/18/2018

Date

/s/Michael Goldstein

Signature

Goldstein, Michael (60358)

Last Name, First Name (PNum)

Law Office of Michael P. Goldstein

Law Firm